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(b) *Other requirements.* As a condition for federal payments under section 103(b) of the Act, in the case of any policy that is issued after December 26, 2007, an insurer must provide clear and conspicuous disclosure to the policyholder of the existence of the \$100,000,000,000 cap under section 103(e)(2). The cap disclosure must be made at the time of offer, purchase, and renewal of the policy.

(c) *Demonstration of compliance.* For policies issued after December 26, 2007, if an insurer does not provide a cap disclosure by the time of the first offer, purchase or renewal of the policy after December 26, 2007, then the insurer must be able to demonstrate to Treasury's satisfaction that it has provided the disclosure as soon as possible following December 26, 2007.

(d) *Other applicable rules.* The rules in § 50.12(a), (c), (d), (e)(1), and (f) (relating to clear and conspicuous disclosure) and in § 50.13 (relating to offer, purchase, and renewal) apply to the cap disclosure.

[73 FR 53364, Sept. 16, 2008]

§ 50.17 Use of model forms.

(a) *Policies in force on the date of enactment.* (1) An insurer that is required to make the disclosure under § 50.10(b) and that makes no change in the existing premium, is deemed to be in compliance with the disclosure requirement if it uses NAIC Model Disclosure Form No. 2.

(2) An insurer that is required to make the disclosure under § 50.10(b) and that makes a change in the existing premium, is deemed to be in compliance with the disclosure requirement if it uses NAIC Model Disclosure Form No. 1. Such an insurer may also use the same NAIC Model Disclosure Form No. 1 to comply with the notice requirement of section 105(c) of the Act. *See* § 50.18.

(b) *Policies issued within 90 days of the date of enactment.* An insurer that is required to make the disclosure under § 50.10(c) is deemed to be in compliance with the disclosure requirement if it uses either NAIC Model Disclosure Form No. 1 or NAIC Model Disclosure Form No. 2, as long as the form used is modified as appropriate for the particular policy.

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(c) *Policies issued more than 90 days after the date of enactment.* An insurer that is required to make the disclosure under § 50.10(d) may continue to use NAIC Model Disclosure Form No. 1 or NAIC Model Disclosure Form No. 2 if appropriate, or other disclosures that meet the requirements of §§ 50.10(a) and 50.14 may be developed.

(d) *Not exclusive means of compliance.* An insurer is not required to use NAIC Model Disclosure Form No. 1 or NAIC Model Disclosure Form No. 2 to satisfy the disclosure requirement. An insurer may use other means to comply with the disclosure requirement, as long as the disclosure comports with the requirements of the Act.

(e) *Cap disclosure.* An insurer may use NAIC Model Disclosure Form No. 1 or NAIC Model Disclosure Form No. 2 dated December 19, 2007, or as subsequently modified in accordance with paragraph (f) of this section, to satisfy the cap disclosure requirement, or another disclosure that meets the requirements of § 50.15 may be developed.

(f) *Definitions.* For purposes of this section, references to NAIC Model Disclosure Form No. 1 and NAIC Model Disclosure Form No. 2 refer to such forms as were in existence on April 18, 2003, or as subsequently modified by the NAIC, provided Treasury has stated that usage by insurers of the subsequently modified forms is deemed to satisfy the disclosure requirements of the Act and the insurer uses the most current forms that are available at the time of disclosure. These forms may be found on the Treasury Web site at <http://www.treasury.gov/trip>.

[68 FR 19306, Apr. 18, 2003, as amended at 71 FR 27570, May 11, 2006; 73 FR 53364, Sept. 16, 2008]

§ 50.18 Notice required by reinstatement provision.

(a) *Nullification of terrorism exclusion.* Any terrorism exclusion in a contract for property and casualty insurance that was in force on November 26, 2002, is void to the extent it excludes losses that would otherwise be insured losses.

(b) *Reinstatement of terrorism exclusion.* Notwithstanding paragraph (a) of this section, an insurer may reinstate a preexisting provision in a contract for property and casualty insurance that

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was in force on November 26, 2002, and that excludes coverage for an act of terrorism only if:

(1) The insurer has received a written statement from the insured that affirmatively authorizes such reinstatement; or

(2) The insurer provided notice at least 30 days before any such reinstatement of the increased premium for such terrorism coverage and the rights of the insured with respect to such coverage, including the date upon which the exclusion would be reinstated if no payment is received, and the insured fails to pay any increased premium charged by the insurer for providing such terrorism coverage.

[68 FR 19306, Apr. 18, 2003, as amended at 68 FR 59727, Oct. 17, 2003]

§ 50.19 General disclosure requirements for State residual market insurance entities and State worker's compensation funds.

(a) *Policies in force on October 17, 2003, or renewed or issued on or before January 15, 2004.* For policies in force on October 17, 2003, or renewed or issued on or before January 15, 2004, the disclosure required by section 103(b) of the Act as a condition for Federal payment is waived for those State residual market insurance entities and State workers' compensation funds that since November 26, 2002, have not provided disclosures to policyholders, until January 15, 2004, after which disclosures are to be made to policyholders for policies then in force and subsequently issued.

(b) *Residual Market Mechanism Disclosure.* A State residual market insurance entity or State workers' compensation fund may provide the disclosures required by this subpart B to policyholders using normal business practices, including forms and methods of communication used to communicate similar policyholder information to policyholders. The disclosures may be made by the State residual market insurance entity or State workers' compensation fund itself, the individual insurers that participate in the State residual market insurance entity or a State workers' compensation fund, or its servicing carriers. The ultimate responsibility for ensuring that the disclosure requirements have been met

rests with the insurer filing a claim under the Program.

(c) *Other requirements.* Except as provided in this section, all other disclosure requirements set out in this subpart B apply to State residual insurance market entities and State workers' compensation funds.

(d) *Prior safe harbor superseded.* This section supersedes the disclosure safe harbor provisions found at paragraph C.4 of the Interim Guidance issued by Treasury in a notice published on December 18, 2002, and published at 67 FR 78864 (December 26, 2002).

[68 FR 59719, Oct. 17, 2003]

Subpart C—Mandatory Availability

SOURCE: 68 FR 19307, Apr. 18, 2003, unless otherwise noted.

§ 50.20 General mandatory availability requirements.

(a) *Transition Period and Program Years 1 and 2—period ending December 31, 2004.* Under section 103(c) of the Act (unless the time is extended by the Secretary as provided in that section) during the period beginning on November 26, 2002 and ending on December 31, 2004 (the last day of Program Year 2), an insurer must:

(1) Make available, in all of its property and casualty insurance policies, coverage for insured losses; and

(2) Make available property and casualty insurance coverage for insured losses that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism.

(b) *Program Year 3—calendar year 2005.* In accordance with the determination of the Secretary announced June 18, 2004, an insurer must comply with paragraphs (a)(1) and (a)(2) of this section during Program Year 3.

(c) *Program Years 4 and 5—calendar years 2006 and 2007.* Under section 103(c) of the Act, an insurer must comply with paragraphs (a)(1) and (a)(2) of this section during Program Years 4 and 5.

(d) *Program Years thereafter.* Under section 103(c) of the Act, an insurer must comply with paragraphs (a)(1)